

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Judicial Watch, Inc.,	:	
et al.,	:	Case No. 2:12-cv-0792
	:	
Plaintiffs,	:	JUDGE EDMUND A. SARGUS, JR.
v.	:	
	:	Magistrate Judge Kemp
Ohio Secretary of State Jon	:	
Husted,	:	
	:	
Defendant.	:	

MEMORANDUM OF
FIRST PRETRIAL CONFERENCE

This matter came before the Court on November 27, 2012 at 3:30 p.m. at the First Pretrial Conference pursuant to notice and in accordance with Rule 16 of the Federal Rules of Civil Procedure. Counsel appeared as follows:

For the Plaintiffs:

Chris Fedeli
Joshua Bollinger

For the Defendant:

Aaron D. Epstein

The following matters were considered:

A. VENUE AND JURISDICTION

Any motion raising lack of standing as a jurisdictional issue shall be filed by November 29, 2013.

B. PARTIES AND PLEADINGS

Any motion to amend the pleadings or to join parties shall be filed by December 21, 2013.

C. MOTIONS

There are no pending motions.

D. ISSUES

Through this action, plaintiffs seek to have the Ohio Secretary of State comply with certain voter list obligations set out in Section 8 of the National Voter Registration Act of 1993, 42 U.S.C. §1973gg-6. Plaintiffs assert that the Ohio voter list is not up to date, as evidenced by, among other things, the fact that in three Ohio counties the voter rolls have more names on them than there are eligible voters in those counties. Plaintiffs seek an injunction compelling compliance with the Act.

Defendant denies liability and raises various defenses. This is a nonjury case.

E. DISCOVERY PROCEDURES

All discovery shall be completed by October 31, 2013, although the parties may request leave to do additional discovery should dispositive motions be denied. For purposes of complying with this order, all parties shall schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and shall file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so.

Any motions for summary judgment shall be filed by November 29, 2013.

F. EXPERT TESTIMONY

If plaintiffs seek to establish a matter

other than damages affirmatively through the use of expert testimony, they shall identify such expert by July 20, 2013. The manner of identification shall be by way of the disclosures required by Fed. R. Civ. P. 26(a)(2), which reads in full:

Witnesses Who Must Provide a Written Report. Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report--prepared and signed by the witness--if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report must contain:

- (i) a complete statement of all opinions the witness will express and the basis and reasons for them;
- (ii) the facts or data considered by the witness in forming them;
- (iii) any exhibits that will be used to summarize or support them;
- (iv) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- (v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- (vi) a statement of the compensation to be paid for the study and testimony in the case.

If defendant intends to use expert testimony directed to that subject matter, it shall identify, in the same manner, such expert by August 30, 2013.

Pursuant to Fed. R. Civ. P. 26(b)(4)(A), leave of court is not required in order to depose a testifying expert.

G. SETTLEMENT

If it has not happened before these dates, the parties will exchange settlement proposals in June, 2013. The parties shall make a good faith effort to settle this case. This case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference during this Court's September, 2013 settlement week. In order for the conference to be meaningful, all discovery that may affect the parties' ability to evaluate this case for settlement purposes must be completed prior to the beginning of settlement week. The parties will also be expected to comply fully with the settlement week orders which require, inter alia, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

H. OTHER MATTERS

None.

If the foregoing does not accurately record the matters considered and the agreements reached at the conference, counsel will please immediately make their objection in writing. If any date set in this order falls on a Saturday, Sunday or legal holiday, the date is automatically deemed to be the next regular business day.

/s/ Terence P. Kemp
United States Magistrate Judge